



DEPARTMENT OF COMMERCE

International Trade Administration

[C-489-840]

Common Alloy Aluminum Sheet from the Republic of Turkey: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances, in Part

SUMMARY: The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of common alloy aluminum sheet (aluminum sheet) from the Republic of Turkey (Turkey).

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Gene H. Calvert, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-3586.

SUPPLEMENTARY INFORMATION:

Background

On August 14, 2020, Commerce published the *Preliminary Determination* in the *Federal Register*.¹ In addition to the Government of Turkey (GOT), the mandatory respondents in this investigation are Assan Aluminyum Sanayi ve Ticaret A. S. (Assan) and Teknik Aluminyum Sanayi A.S. (Teknik). In the *Preliminary Determination*, and in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(b)(4), Commerce aligned the final countervailable duty (CVD) determination with the final antidumping duty determination.²

¹ See *Common Alloy Aluminum Sheet from the Republic of Turkey: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Determination of Critical Circumstances in Part, and Alignment of Final Determination with Final Antidumping Duty Determination*, 85 FR 49629 (August 14, 2020) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

² *Id.*, 85 FR at 49629.

A summary of the events that occurred since Commerce published the *Preliminary Determination*, may be found in the Issues and Decision Memorandum.³ The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Period of Investigation

The period of investigation (POI) is January 1, 2019, through December 31, 2019.

Scope of the Investigation

The product covered by this investigation is aluminum sheet from Turkey. For a full description of the scope of the investigation, *see* Appendix I.

Scope Comments

During the course of this investigation, Commerce received scope comments from interested parties. Commerce issued a Preliminary Scope Decision Memorandum to address these comments.⁴ We received comments from interested parties on the Preliminary Scope Decision Memorandum, which we address in the Final Scope Decision Memorandum.⁵ Commerce is not modifying the scope language as it appeared in the Preliminary Scope Decision Memorandum. *See* Appendix I for the final scope of the investigation.

Verification

³ See Memorandum, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Common Alloy Aluminum Sheet from the Republic of Turkey," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁴ See Memorandum, "Antidumping and Countervailing Duty Investigations of Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey: Scope Comments Decision Memorandum for the Preliminary Determinations," dated October 6, 2020 (Preliminary Scope Decision Memorandum).

⁵ See Memorandum, "Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey: Scope Comments Final Decision Memorandum," dated concurrently with, and hereby adopted by, this notice (Final Scope Decision Memorandum).

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Act.⁶

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. For a list of the issues raised by parties, and to which we responded in the Issues and Decision Memorandum, *see* Appendix II of this notice.

Methodology

Commerce conducted this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.⁷ For a full description of the methodology underlying this final determination, *see* the Issues and Decision Memorandum.

Final Affirmative Determination of Critical Circumstances, in Part

In accordance with section 703(e)(1)(B) of the Act, Commerce preliminarily determined that critical circumstances existed with respect to imports of aluminum sheet from Turkey for Assan, but did not exist with respect to Teknik or for all other exporters or producers not individually examined.⁸ We have further analyzed the data following the *Preliminary Determination*, and we have made no modifications to our findings for the final determination.

Accordingly, pursuant to section 705(a)(2) of the Act, we continue to find that critical

⁶ *See* Commerce’s Letter, “Countervailing Duty Investigation of Common Alloy Aluminum Sheet from Turkey: In Lieu of Verification Questionnaire,” dated January 14, 2021; *see also* Assan’s Letter, “Common Alloy Aluminum Sheet from Turkey: Response to Questions in Lieu of Verification,” dated January 22, 2021; and Teknik’s Letter, “Common Alloy Aluminum Sheet from Turkey: Teknik Alüminyum Sanayi A.S.’s Response to the Questionnaire in Lieu of Verification,” dated January 22, 2021.

⁷ *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

⁸ *See Preliminary Determination*, 85 FR at 49630.

circumstances exist with respect to imports of aluminum sheet from Turkey with respect to Assan. We continue to find, as we did in the *Preliminary Determination*, that critical circumstances do not exist with respect to imports of aluminum sheet from Turkey with respect to Teknik and for all other producers or exporters not individually examined. For a full description of the methodology and results of Commerce's analysis, *see* the Issues and Decision Memorandum.

Changes Since the *Preliminary Determination*

Based on our analysis of the record and the comments received, we have made certain changes to the countervailable subsidy rate calculations. For a discussion of these changes, *see* the Issues and Decision Memorandum.

All-Others Rate

Section 705(c)(5)(A) of the Act provides that in the final determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any rates that are zero, *de minimis*, or based entirely under section 776 of the Act.

In this investigation, Commerce calculated an individual estimated countervailable subsidy rate for Assan and for Teknik. Sections 705(c)(1)(B)(i)(I) and 705(c)(5)(A) of the Act direct Commerce to calculate and estimated "all-others" rate for exporters and producers not individually investigated. Section 705(c)(5)(A)(i) of the Act provides that the "all-others" rate shall be an amount equal to the weighted-average of the countervailable subsidy rates established for individually investigated exporters and producers, excluding any rates that are zero, *de minimis*, or determined entirely under section 776 of the Act. Because we determine that the sales information submitted by respondent Teknik is unreliable,⁹ as a result, we find that complete and publicly-available sales data for Teknik is not available. Therefore, instead of calculating a rate equal to the weighted average of the countervailable subsidy rates calculated for Assan and Teknik, for this

⁹ *See* Issues and Decision Memorandum at Comment 1.

final determination, we are using the simple average of Assan's and Teknik's subsidy rates as the rate for "all others."¹⁰

Final Determination

We determine the countervailable subsidy rates to be:

Producer / Exporter	Subsidy Rate (percent)
Assan Aluminyum Sanayi ve Ticaret A. S. ¹¹	2.56
Teknik Aluminyum Sanayi A.S. ¹²	4.34
All Others	3.45

Disclosure

We intend to disclose the calculations performed in this final determination to interested parties within five days of the public announcement or, if there is no public announcement, within five days of the date of the publication of this notice in the *Federal Register*, in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

As a result our *Preliminary Determination*, and pursuant to section 703(d)(1)(B) and (d)(2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of aluminum sheet from Turkey, that were entered, or withdrawn from warehouse, for consumption on or after August 14, 2020, which is the date of publication of the *Preliminary Determination* in the *Federal Register*. Because we preliminarily determined that critical circumstances existed with respect to Assan, we instructed CBP to suspend such entries on after May 16, 2020, which is 90 days prior to the date of the publication of the *Preliminary Determination* in the *Federal*

¹⁰ It is Commerce's practice to calculate a rate for "all others" by weight-averaging the calculated subsidy rates of the respondent companies using their publicly-available sales data for exports of subject merchandise to the United States during the POI. See, e.g., *Countervailing Duty Investigation of Certain New Pneumatic Off-the-Road Tires from India: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 82 FR 2946 (January 10, 2017). However, in certain instances, Commerce may calculate the rate for "all others" by using a simple average of the subsidy rates of the companies under examination when it finds that sales data is not available. See *Certain Corrosion Inhibitors from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 86 FR 7537 (January 29, 2021).

¹¹ Commerce has found Kibar Dis Ticaret A.S. and Kibar Holding to be cross-owned with Assan Aluminyum Sanayi ve Ticaret A.S., pursuant to 19 CFR 351.525(b)(6)(vi).

¹² Commerce has found TAC Metal Ticaret A.S. to be cross-owned with Teknik Aluminyum Sanayi A.S., pursuant to 19 CFR 351.525(b)(6)(vi).

Register. Because we preliminarily found a *de minimis* subsidy rate for Teknik, we instructed CBP to not suspend liquidation of entries of the merchandise produced by Teknik and exported by either Teknik or by TAC Metal. In accordance with section 703(d) of the Act, effective December 12, 2020, we instructed CBP to discontinue the suspension of liquidation of all entries, but to continue the suspension of liquidation for all entries of subject merchandise between August 14 through December 11, 2020.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a CVD order and will reinstate the suspension of liquidation under section 706(a) of the Act and will require a cash deposit of estimated countervailable duties for such entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all case deposits will be refunded or cancelled.

ITC Notification

In accordance with section 705(d) of the Act, we intend to notify the ITC of our determination. Because the final determination in this proceeding is affirmative, in accordance with section 705(b) of the Act, the ITC will make its final determination as to whether the domestic injury in the United States is materially injured, or threatened with material injury, by reason of imports of aluminum sheet from Turkey no later than 45 days after our final determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO) without the written consent of the Assistant Secretary for Enforcement and Compliance.

Notification Regarding APO

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to APO of their responsibility concerning the disposition of

proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

Notification to Interested Parties

This determination is issued and published in accordance with sections 705(d) and 777(i) of the Act, and 19 CFR 351.210(c).

Dated: March 1, 2021.

Christian Marsh,
Acting Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The products covered by this investigation are common alloy aluminum sheet, which is a flat-rolled aluminum product having a thickness of 6.3 mm or less, but greater than 0.2 mm, in coils or cut-to-length, regardless of width. Common alloy sheet within the scope of this investigation includes both not clad aluminum sheet, as well as multi-alloy, clad aluminum sheet. With respect to not clad aluminum sheet, common alloy sheet is manufactured from a 1XXX-, 3XXX-, or 5XXX-series alloy as designated by the Aluminum Association. With respect to multi-alloy, clad aluminum sheet, common alloy sheet is produced from a 3XXX-series core, to which cladding layers are applied to either one or both sides of the core. The use of a proprietary alloy or non-proprietary alloy that is not specifically registered by the Aluminum Association as a discrete 1XXX-, 3XXX-, or 5XXX-series alloy, but that otherwise has a chemistry that is consistent with these designations, does not remove an otherwise in-scope product from the scope.

Common alloy sheet may be made to ASTM specification B209–14 but can also be made to other specifications. Regardless of specification, however, all common alloy sheet meeting the scope description is included in the scope. Subject merchandise includes common alloy sheet that has been further processed in a third country, including but not limited to annealing, tempering, painting, varnishing, trimming, cutting, punching, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of this investigation if performed in the country of manufacture of the common alloy sheet.

Excluded from the scope of this investigation is aluminum can stock, which is suitable for use in the manufacture of aluminum beverage cans, lids of such cans, or tabs used to open such cans. Aluminum can stock is produced to gauges that range from 0.200 mm to 0.292 mm, and has an H-19, H-41, H-48, H-39, or H-391 temper. In addition, aluminum can stock has a lubricant applied to the flat surfaces of the can stock to facilitate its movement through machines used in the manufacture of beverage cans. Aluminum can stock is properly classified under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7606.12.3045 and 7606.12.3055.

Where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set for the above.

Common alloy sheet is currently classifiable under HTSUS subheadings 7606.11.3060, 7606.11.6000, 7606.12.3096, 7606.12.6000, 7606.91.3095, 7606.91.6095, 7606.92.3035, and 7606.92.6095. Further, merchandise that falls within the scope of this investigation may also be entered into the United States under HTSUS subheadings 7606.11.3030, 7606.12.3015, 7606.12.3025, 7606.12.3035, 7606.12.3091, 7606.91.3055, 7606.91.6055, 7606.92.3025, 7606.92.6055, 7607.11.9090. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Final Determination of Critical Circumstances
- IV. Use of Adverse Facts Available
- V. Subsidies Valuation
- VI. Analysis of Programs
- VII. Analysis of Comments
 - Comment 1: Whether to Determine That Teknik Failed to Comply with Verification Requests and Apply Facts Available with Adverse Inferences
 - Comment 2: Whether the Value-Added Tax (VAT) Exemption on Assan's Acquisition of the Operating Rights for a Hydroelectric Power Plant is a Countervailable Subsidy
 - Comment 3: The Provision of Land for Less Than Adequate Remuneration (LTAR)
 - Comment 4: Whether to Revise Certain of Assan's Sales Denominators
 - Comment 5: Whether Commerce Should Deduct Commissions Paid by Assan Regarding the Rediscount Loan Program and the Export-Oriented Working Capital Credit Program
 - Comment 6: Whether Commerce Should Correct Certain Calculation Errors Regarding Assan
- VIII. Recommendation

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